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Palgrave Macmillan

2017-01-01

Rissanen , A V E 2017 , Legal Aid in Finland . in O H Rønning & O Hammerslev (eds) , Outsourcing Legal Aid in the Nordic Welfare States . , 4 , Palgrave Macmillan , Cham , pp. 77-97 . https://doi.org/10.1007/978-3-319-46684-2_4

<http://hdl.handle.net/10138/299675>

https://doi.org/10.1007/978-3-319-46684-2_4

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Legal Aid in Finland

Antti Rissanen

Introduction

In Finland, public legal aid is governed by the Legal Aid Act, the Act on State Legal Aid Offices, and three government decrees: one on legal aid, one on legal aid fee criteria, and one on state legal aid offices. Legal aid is administered by the Ministry of Justice and is granted mainly through the state legal aid offices or the decisions of the courts. Legal aid services in Finland employ both public and private service providers. Public legal aid (PLA) offices work the same way regardless of their geographical location, and their main task is to provide a wide range of legal services, from legal counselling to court duties. Under the legal aid system, public legal aid lawyers working in PLA offices provide all kinds of legal help, from court representation to out-of-court proceedings, such as document drafting and legal advice, whereas private lawyers can represent legal aid clients only in court proceedings. Legal aid work by private lawyers needs

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to be first approved by a legal aid decision from the PLA office, after which they are paid out of state funds. Legal aid is provided in basically all cases where there is a need for legal aid, excluding cases of little importance such as uncontested divorces, or criminal cases where only a fine is anticipated. Legal aid is either free of charge, or provided with an excess and is not available to companies or corporations.

The origins of the Finnish legal aid scheme go back to the 1950s. In 1956, a law ensuring free trial took effect in Finland. Its aim was to provide citizens with state-funded legal representation in the courts by private lawyers. Matters outside such litigation were left out of the new Act, mainly for fiscal reasons (Jokela 1995). The new law concerning free trial and the first municipal legal aid act came into force in 1973, thereby expanding the scope of the cost-free procedure and establishing communal legal aid offices (Jokela 1995; Rosti et al. 2008). This reform created the current mixed-model system in which public legal aid lawyers, working in public legal aid offices, as well as private lawyers, provided legal aid services. The main reason for creating salaried legal aid offices was to make it possible to provide legal aid throughout the whole country. In the late 1980s, a revision of the law expanded legal aid to cover many out-of-court civil cases (especially those related to divorce and child custody), as well as preliminary investigations in criminal cases.

The next notable structural change was made in the late 1990s, when public legal aid offices were transferred from the municipalities to the Finnish state. The reform also introduced the possibility of partial payment for legal aid where the client's liability was determined by means and merit testing (Rosti et al. 2008, p. 64). A larger modification took place in 2002, when the new Legal Aid Act came into force. Now, public and private legal aid providers were placed under the same law, and the state's legal aid offices were tasked with making all decisions related to granting legal aid. This clarified the system from the clients' point of view; now the only gateway to the system was through public legal aid offices. During 2002, on the basis of the new Legal Aid Act, the financial criteria for publicly-funded legal aid were also altered. This change extended the availability of legal aid, which had been mostly used by the poor, to middle-income clients. In the legislative drafting of the new Legal Aid Act, it was estimated that the proportion of the population

eligible for at least partially subsidised legal aid would expand with this act from 45% to 75% (Finnish Government 2001). The decision-makers' view was that legal services should be equally accessible to all citizens, irrespective of their financial means. What was unique about this reform by international standards was the major contribution of state salaried public legal aid lawyers and other office staff (Regan and Johnsen 2007).

Since publicly-funded legal aid is primarily designed for the needy, and to some in the middle-class, for the majority of Finns the usual way to cover legal proceedings is legal expenses insurance (LEI) provided by private insurance companies. LEI was first introduced in 1968, and it is usually automatically included with household insurance, which explains its prevalence; according to reliable estimates, around 90% of Finns are covered by it (Lasola and Rissanen 2013). According to Finnish legislation, LEI takes precedence over public legal aid. This principle has been followed since the 2002 legal aid reform (Rosti et al. 2008).

Compared to those in many common law jurisdictions, legal aid services in Finland and citizens' access to justice overall have not been systematically researched. The reasons are many, but a major one is that Finnish scholars and academics have focused more on other aspects of socio-legal studies rather than access to justice (e.g., Ervasti 2008). However, a few academic articles have been published on the Finnish legal aid system, both in Finnish and in English. Probably the most notable research has been conducted by Francis Regan and Jon T. Johnsen, who evaluated the Finnish legal aid system from an international perspective in the first decade of the 2000s (Regan and Johnsen 2007). Since that time, publications addressed to an international audience have been produced by Rosti et al. (2008), who offer a more technical description of Finnish legal aid, and Johnsen (2011), who compared the Finnish and the Norwegian legal aid systems. In the past few years, the former National Institute of Legal Policy¹ has published a set of studies (in Finnish only) about the current state of the Finnish legal aid system (Rissanen and Rantala 2013; Lasola and Rissanen 2014; Rissanen and Lasola 2014).

The aim of this chapter is to offer an up-to-date description of the Finnish legal aid system and its functions in the welfare state. In addition to the more technical description of Finnish legal aid, the aim is to explore

how various legal aid initiatives implement access to justice goals, and to determine what effects these policies will have from the perspective of potential legal aid clients. In the following sections, I will first provide a detailed overview of the legal aid services in Finland. This includes explaining entitlement criteria for legal aid (material and financial), procedural issues, providers, use, and expenditure. Second, I briefly describe alternative legal aid initiatives. Third, I will show how public legal aid is currently addressed from the decision-makers' point of view and describe the kinds of reforms currently being faced in a time of austerity. Thereafter, I discuss the current challenges of the mixed legal aid model. Finally, I will briefly summarise the discussion and address the future of legal aid services in Finland.

Details and Function of the Finnish Legal Aid System

Entitlement and Eligibility

By international standards, the Finnish PLA system is often seen as generous and comprehensive (Regan and Johnsen 2007; Rosti et al. 2008; Barendrecht et al. 2014). Legal aid is granted to all inhabitants having a need for expert assistance in legal matters. However, legal aid is not granted if the applicant has legal expenses insurance that covers the matter in hand.

Legal aid can be applied for either by submitting a legal aid application straight to the PLA offices or by filling in an electronic legal aid application form on the internet. When applicants contact the PLA office to meet with a PLA lawyer, they are advised to arrive with all the necessary documents on their income, wealth, and debt since these are required when legal aid is being considered. If an applicant has chosen to use the services of a private lawyer, the usual procedure is to fill in the legal aid application with the lawyer with the help of all the aforementioned documents. If the legal aid application is made using the electronic application form no documents on income, wealth, or debt can be attached to it. The

electronic application forms are verified by using spot checks, and the applicant is obligated to provide the necessary documents if they are asked for by the PLA office. In addition, PLA offices are entitled to obtain information about the applicant's financial status from state and municipal officials, as well as from private institutions such as pension funds and insurance companies.

Legal aid eligibility is based on the applicant's available means. This is assessed by calculating their net monthly income. Net income is calculated from the monthly combination of the applicant's income after taxes, wealth, and expenditure. Expenditure is calculated by deducting from disposable income, housing costs (no instalment of a mortgage), child-care fees, alimony, recovery proceedings, and loan arrangements. Wealth is calculated after liabilities attached to its value are reduced. Wealth that is not taken into account in determining the supplementary excess consists of a family's primary residence and a car, provided that their value is reasonable in proportion to the family's size and need. If the applicant is married or cohabits, the incomes of both spouses are taken into account in the calculation.

If the monthly funds available to a single applicant are 600 € or less, legal aid will be granted for free (Table 4.1). If their funds lie between 601 € and 1300 €, the applicant has to pay an excess, determined by sliding eligibility scales. This type of scale gradually reduces the share contributed by the state, in proportion to the client's income and wealth. In addition, those who pay an excess also have to pay a legal aid charge of

Table 4.1 Monthly means and the basic excess that the applicant is liable to pay

Income/single person	Excess	Income/spouses, per person	Excess
600 € at the most	0%	550 € at the most	0%
800 € at the most	20%	700 € at the most	20%
900 € at the most	30%	800 € at the most	30%
1050 € at the most	40%	1000 € at the most	40%
1150 € at the most	55%	1100 € at the most	55%
1300 € at the most	75%	1200 € at the most	75%

Figures from the Finnish Ministry of Justice web pages, <http://www.oikeus.fi/oikeusapu/en/index/hakeminen/mitaoikeusapumaksaa.html>, obtained 16 January 2016

70 €. The supplementary excess consists of 50% of the assets of the applicant and of his or her spouse, insofar as these exceed 5000 €. One reason for the personal contribution is to encourage clients to weigh carefully the costs and benefits of legal proceedings, thereby discouraging frivolous cases. Fees paid by PLA office clients amounted to approximately 5.3 million € in 2015. Of this sum, 3.2 million € was collected from clients paying an excess. Just under 500,000 € was from the compensation paid by the losing party in the legal dispute. PLA offices also collected 1.5 million € from so-called self-paying clients, who fund their legal help completely by themselves. In rural areas, where there are no private lawyer service nearby, PLA offices can take on clients who are not entitled to state paid legal aid according to their means and merits. In these situation clients are obligated to pay to the PLA office the current median hourly fee for private lawyer services.

Financial eligibility is reviewed when the applicant files a legal aid application. If the application is rejected, then the applicant may appeal the decision by filing a re-submission. In this event, the PLA office can itself rectify the decision or forward the re-submission to the court. As mentioned in the previous section, PLA offices essentially have a monopoly on out-of-court legal aid issues. If the applicant has a legal issue involving litigation, she/he can choose whether to use the services of a PLA office or a private lawyer. However, a legal aid decision to use a private lawyer can be granted in out-of-court matters only in special cases, that is, if the particular issue requires some sort of juridical knowledge that the PLA office lacks, or if the PLA office lacks sufficient resources to handle the question. In addition, the two parties in a dispute cannot seek help from the same PLA office. This disqualifies the PLA office from handling the other party's case, and she/he will need to get help from another PLA office or a private lawyer.

In a legal dispute, legal aid covers the costs of the party receiving legal aid but not the costs of the other party. Thus, if the legal aid client ends up losing the case, she/he may have to pay the costs of the winning party. Likewise, if the legal aid client wins the case, the other party is liable to pay the state's costs (Rosti et al. 2008: p. 69.). In addition to the lawyer's fees, legal aid covers any translation or interpretation services required, expenses for evidence (e.g., medical certificates), and witnesses' fees.

Legal Aid in PLA Offices

At present there are 23 state legal aid offices in Finland, which operate in 165 locations around the country. These locations are branch offices where PLA lawyers are usually on call by agreement. The offices are most often in the vicinity of the district courts. The offices are geographically divided among six legal aid districts, with a Head of District manager in charge of each district.² The districts were selected on the basis of the regional need for legal aid services. Legal aid offices have from 4 to 30 employees, of which approximately half are lawyers and the rest are office staff (Muilu 2015).

In 2014, PLA offices dealt with around 46,500 legal aid cases. This is less than in the first decade of 2000s when PLA offices on average dealt with close to 55,000 cases per year. Despite the decrease in the number of cases handled, the case structure itself has not altered. Over half of all legal aid cases in PLA offices are out-of-court issues. In 2014, the most common service was legal advice, which accounted for just under 40% of all services (Fig. 4.1). The second most common service was document drafting (22%), and the third was court hearings (19%). The category

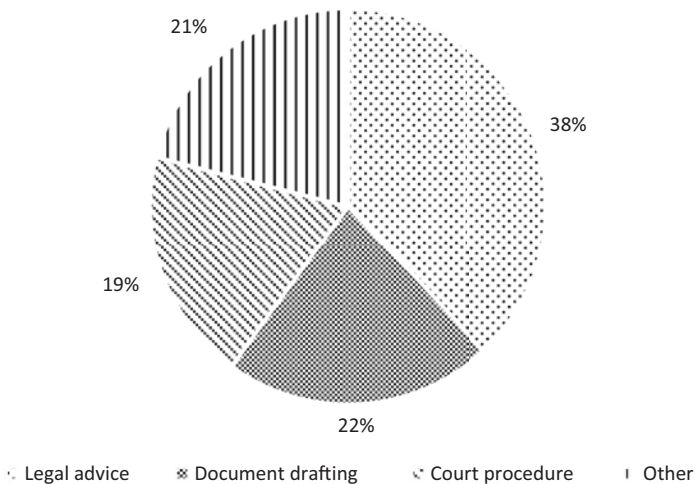


Fig. 4.1 Services provided in PLA offices in 2014 (Ministry of Justice (MoJ) 2015a)

‘other’ includes, for example, procedures involving administrative authorities, trade confirmations, and assistance to asylum seekers.

Legal advice in PLA offices is divided between giving face-to-face advice and telephone counselling. Of all the advice given, only a little over half was in face-to-face encounters. The key feature of telephone counselling is that it is always free for everybody: there is neither means nor merit testing, as there is for face-to-face advice. Telephone counselling is a relatively new service in PLA offices; it was piloted in 2005 and became available nationwide in 2009; since that time it has become one of the most widely used means of obtaining legal assistance from PLA offices. Because of this universally available telephone counselling, the role of PLA offices has moved towards being a legal ‘triage’ service, providing the first steps in a legal diagnosis. In other words, after the initial contact, the PLA office provides either a comprehensive legal diagnosis or, at least a preliminary one, together with referral to someone who can provide a fuller diagnosis (Pleasence et al. 2014). However, according to PLA lawyers, many people who are first helped over the phone will eventually end up booking face-to-face meetings with the lawyer, because of the complexity of their legal issue (Rissanen and Rantala 2014).

Family and inheritance issues are the most common problems handled in PLA offices (Fig. 4.2). In 2014, these made up approximately one half of all cases. Other traditional civil law cases, which comprise the third largest group (21%), concern real estate issues, debt, rent, compensatory damages, employment contracts, and torts. In recent years, the single most common issue for PLA offices has been drafting estate inventories. In 2012, such inventories made up 12% of the issues handled by PLA offices.

The distribution of cases also suggests that PLA offices have the profile of a primary legal aid provider, that is, they seek to prevent legal problems from escalating into a courtroom conflict. Since the majority of cases they handle are non-litigation matters, PLA offices fulfil an important screening function by tackling disputes and other legal problems at an early stage, thereby diminishing the possibility of escalation, and minimising social and personal costs. The majority of their clients receive their legal aid for free. In 2014, around 70% of all clients received legal assistance free of charge, and 23% paid an excess. Seven per cent of PLA clients were so-called self-paying customers, who paid the full cost of their legal aid.

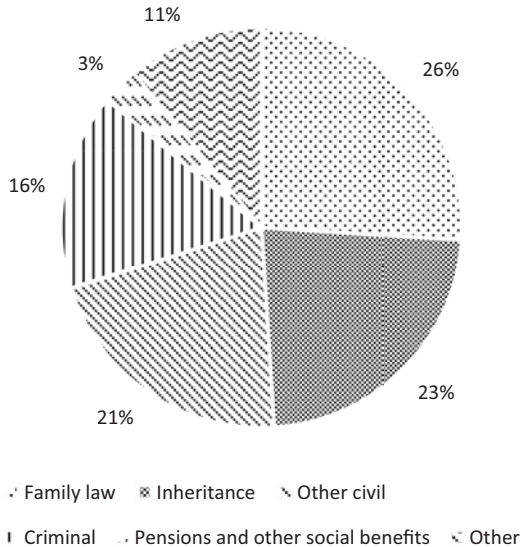


Fig. 4.2 The distribution of cases in PLA offices in 2014 (MoJ 2015a)

According to a 2013 study (Rissanen and Rantala 2013), users of PLA services mainly find the service in one of three ways: (1) they hear about it from other officials (from the courts, police, or social services); (2) it is recommended by their friends or relatives; (3) they find it on the internet. PLA offices themselves do not actively advertise their services. They have sometimes been criticised for their long waiting times: the time that elapses between the client first contacting the office to make an appointment and the actual meeting with a lawyer. In 2008, the average waiting time was 11 days; in 2014 it was 13 days.

Finland is a sparsely populated country,³ which has challenges in providing its citizens with legal aid services and access to justice. Thus, geographical factors are pivotal in considering legal aid services. At present, the geographical distribution of the 23 PLA offices and their operational locations can be considered quite comprehensive, ranging from the southern coast to northern-most Lapland. However, it has been argued that in some parts of the country there is actually a failure to meet the demand for legal aid. These areas are mainly in south-east Finland (Rissanen and Lasola 2014).

There are also regional differences in the use of legal aid services as regards the choice of the PLA or private lawyers. In rural areas, PLA offices handle the majority of all legal aid cases, whereas in urban areas, cases are distributed quite evenly between the two service providers. The main reason behind this division is that private law firms are usually concentrated in population centres.

Legal Aid Cases Handled by Private Attorneys

Unlike the situation in many other countries, in Finland the Finnish Bar Association (FBA) does not have a monopoly on providing legal services. Legal aid from private lawyers is provided either by advocates who are members of the bar, or by someone with a master's degree in law from a Finnish university, or the equivalent from an EEA country,⁴ who is registered by an independent legal counselling board. Prior to 2013, only members of the FBA (as advocates) were under recognised supervision,⁵ but, since then, all lawyers who wish to represent their clients in court have been overseen by an independent disciplinary board. Current estimates suggest that there are around 2000 advocates who are FBA members, and around 1500 licenced lawyers who have a permit to act as a registered legal counsel.⁶ In 2013, there were some 840 private law firms that had handled at least one state-funded legal aid issue that year; 420 of these had handled over ten legal aid issues (Lasola and Rissanen 2014). A great many of these law firms were concentrated in or near Finland's five largest cities.⁷ Private offices handling legal aid cases are generally small, employing on average 1.5 lawyers per office. In recent years, the proportion of private lawyers handling legal aid cases has been around one third. Advocates have handled around 60% of the total, and other lawyers the remaining 40% (Rissanen and Lasola 2014).

In 2014, private lawyers handled around 32,000 legal aid cases, of which approximately 66% were criminal matters, 14% were cases under the Aliens Act (mostly asylum seekers), and 11% were family matters (Fig. 4.3). In recent years, the most notable change in the case structure has been the growing number of cases under the Aliens Act. This is due to new legislation introduced in 2013, which placed asylum seekers' legal

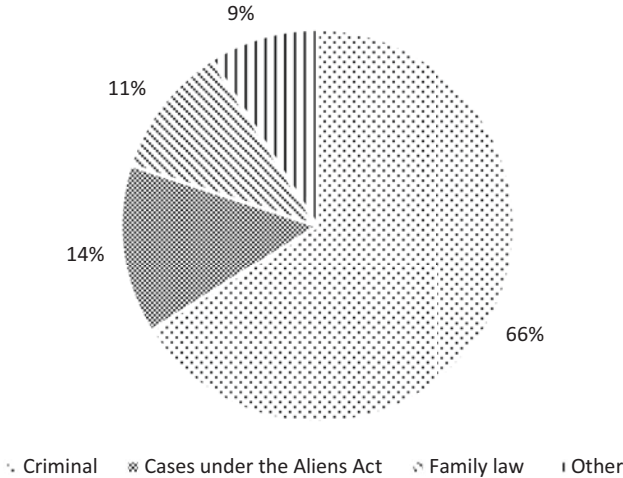


Fig. 4.3 The distribution of private lawyers' legal aid cases in 2014 (MoJ 2015a)

aid solely under the Legal Aid Act.⁸ Cases under the Aliens Act already constitute the second largest case group for private lawyers. The Legal Aid Act gives entitlement to the services of a private lawyer for a maximum of 80 hours. The ceiling of 80 hours is calculated for each issue separately, and includes counselling outside the court as well as representation during trials (Rosti et al. 2008, p. 82).

The preponderance of criminal matters is explained by the fact that, as previously mentioned, private lawyers are only allowed to handle cases involving litigation. However, under special conditions private lawyers can also handle out-of-court legal aid issues. These most often arise when the PLA office is too busy to take on new clients, or is disqualified from handling the matter due to a problem of independence, or lacks the expertise required for the particular case.

Overall the role of private lawyers in the legal aid field, compared to that of PLA offices, is closer to fire-fighting than to preventing legal problems from escalating. This also reflects their customer base: around 90% of private lawyers' legal aid clients receive services free of charge. Guidance from other officials (in PLA offices, the police, and so on) and from the grapevine are the two main channels by which legal aid clients find their

way to private lawyers' offices (Rissanen and Lasola 2014). According to both PLA staff and private lawyers, in recent years, PLA offices have increasingly referred clients with demanding and time-consuming legal problems to private lawyers in order to reduce their overall work burden (Rissanen and Rantala 2013; Rissanen and Lasola 2014).

Expenditure⁹

The public legal aid system is entirely funded by the Ministry of Justice (MoJ). In 2014, expenditure on legal aid amounted to 71.8 million €. Of this sum, 21.4 million € was spent on running legal aid offices, and 50.4 million € was paid in fees and remuneration in legal aid matters to private lawyers (Muilu 2015). Eighty-two percent of the fees and remuneration payable to private lawyers was incurred in the general courts, and 12% in the administrative courts. Six per cent of the fees were related to out-of-court procedures. The fees paid to private lawyers are partly determined on the basis of the time taken to handle legal aid cases (an hourly fee), and partly on the basis of fixed amounts.

Since 2008, the hourly rate paid to private attorneys has been raised twice, first from 91 € to 100 € per hour in 2008, and then from 100 € to 110 € per hour in 2014.¹⁰ Fixed fees are applied in the district courts' hearings of criminal matters, where the fixed fee is 415 €, or 615 € if the hearing lasts over three hours. In civil and petitionary matters, the fees are 515 € and 715 € respectively. The rates are set by governmental directives. At the end of a legal aid case, private lawyers' invoices have to be approved by the presiding judge. Legal aid fees are considerably lower than those paid by clients not entitled to publicly-funded legal aid. The average hourly fee for self-funding clients in recent years has been either side of 200 €, the highest hourly fees for lawyer services being charged in the Helsinki region.

The costs of legal aid have risen in recent years, a rise directly associated with increased payments to private lawyers (Muilu 2015). Annual expenditure on legal aid has increased by around 17 million € since 2008. Another factor in the rise is the transition that took place in 2013, whereby all legal issues involving asylum seekers were moved to the legal aid system. However, spending on PLA offices decreased during the years

between 2010 and 2013. The main reason for this was the implementation of structural changes, which reduced the number of person-years in PLA offices from 445 to 404, and shrank the PLA office network. Barendrecht et al. (2014) calculated that, overall, legal aid costs in Finland per capita are around 13 €, and comprise approximately 0.03% of GDP. In the European context, the Finnish legal aid system is considered very cost effective (ibid.).

Alternative Legal Aid Initiatives

Legal Expenses Insurance

For individuals in need of legal help, LEI is the primary means of covering legal costs. Someone who has LEI that covers a particular issue is not entitled to state-funded legal aid. However, LEI is a very different kind of provider of access to justice. It is managed by insurance companies as an automatic add-on to household insurance. The annual cost of LEI varies from 20 € to 50 €, depending on the insurance company. The usual maximum cover under normal policy conditions is around 8500 €. The basic precondition for LEI is often that it applies to a legal dispute that can be resolved in court. However, LEI also offers some coverage if the case is settled before a courtroom hearing. In such cases 50% of all expenses are usually paid.

Legal counselling and legal advice are excluded from LEI. In recent years, insurance companies have tightened LEI policy conditions governing the type of case covered. For example, family and inheritance issues are generally excluded, or they have to meet strictly defined criteria.

In recent years, the cover offered by LEI has decreased. In addition to tightened policy conditions, the maximum amount of basic insurance has long remained the same, around 8500 €, despite increases in legal costs. In property and housing disputes, for example, it is not uncommon for the entire cover to be used up even before the case goes before a judge in court (Lasola and Rissanen 2014).

Even though public legal aid is not usually granted if the applicant has LEI, there are a few exceptions. One example is when the applicant

receives state-assisted legal aid in order to pay the excess of a LEI policy. Also, in some cases clients may be entitled to legal aid for costs that exceed the maximum coverage provided by LEI. Although a condition for legal aid to be granted is that the applicant does not have a valid LEI policy that would cover the issue in question, PLA and LEI are not overlapping systems. Insurance is more a kind of solution for pre-defined legal issues, while state-funded legal aid basically covers any legal problem, without limits on indemnity.

Other Legal Aid Initiatives

On the whole, the range of alternative legal aid initiatives in Finland is somewhat narrow. There are no law clinics or paralegals that offer assistance with people's legal problems. However, many trade unions offer legal aid services or LEI policies to their members for labour law matters, including this in the price of the membership fee. Unions provide legal assistance to their members if disputes occur between employees and employers. The role of trade unions in labour law cases can be quite significant, as around three out of four working-age Finns belong to a trade union.

Finland also has various ombudsmen. These include the Parliamentary Ombudsman, the Ombudsman for Minorities, the Ombudsman for Equality, a Consumer Ombudsman, a Data Protection Ombudsman, a Patient Ombudsman, and a Social Welfare Ombudsman. In 2014, the Parliamentary Ombudsman and his two deputies received around 4600 complaints. The majority concerned social welfare, the police, health care, and prison administration. Around 16% of the complaints led to action being taken by an ombudsman.¹¹ Unlike that of the Parliamentary Ombudsman, the duty of the Special Ombudsmen is to monitor how the interests and rights involved in their field are implemented in general policies, laws, and practices. Rosti et al. (2008) concludes that, as regards legal services, it is important to note that advice to members of the public is a vital part of each ombudsman's activity. According to the study by Rosti et al. (2008), ombudsmen differ in how they carry out this duty in practice. Much of their advice is given over the telephone, in relatively informal discussions.

Finnish advocates have not traditionally been known to engage in pro bono activity. According to Rosti et al. (2008), during the past few years big law offices have taken on a certain number of pro bono activities. Unfortunately, there is no data or information on what types of legal matters these are, or to whom these pro bono services are given. However, the FBA offers free legal consultations in twelve localities around the country. In these consultations lawyers offer general guidance, advising the client on whether a particular issue requires more specialised legal help. They also assist people with looking for help in the right place. In 2013, the FBA assisted some 1400 people in this way. It can be argued that the lack of pro bono services is mainly due to the comprehensive PLA system, and the service provided by PLA offices in particular. Regarding pro bono services in the Nordic countries, Johnsen (2011, p. 175) says ‘the private profession can be seen advocating for a comprehensive judicare system since it functions as a secondary market as well as reduces the risk of economy failure and on top of that diminishes society’s demand on the profession for pro bono work.’

Recent Policy Developments and Strategies for Publicly-funded Legal Aid

In recent years, the Finnish legal aid system has seen the biggest changes since the 2002 legal aid reform. The most concrete change, driven by the worsening financial situation as well as by demographic changes in the population, has been the reduction of the number of PLA offices, which has dropped from 60 in 2008 to the current 23. Changes in the public legal aid structure are part of a bigger reform involving the entire area of legal services and their quality in Finland. This includes goals for shortening the length of judicial proceedings and strengthening legal protection. The current government has also introduced a plan to cut the number of district courts from 27 to 20 in coming years. As part of this comprehensive reform, legal aid itself has been listed as one of the top priorities.

More concretely, to deal with the above-mentioned cuts, the Finnish Ministry of Justice is increasingly investing in e-services and remote ser-

vices. The reform emphasises that, from a citizen's perspective, the current challenge is to find the right service, and to be able to evaluate its quality and reliability (MoJ 2015a, b). Particular attention is being paid to the timely delivery of legal aid services and preventing legal problems from escalating, which itself acts as a vital part of the state's effort to contain costs (Buck et al. 2008; Doust 2011). In the first wave of these non-traditional service models was the above-mentioned nationwide telephone counselling, introduced in 2009. Now, the emphasis is on video counselling, online reservations for PLA lawyer call backs, helping clients via online chats, and launching an electronic application system (MoJ 2015a, b). In part, greater emphasis on technological services is also intended to reduce situations where parties of the dispute end up seeking help from the same PLA office. At present, video counselling is offered by five PLA offices.

According to Ministry of Justice plans, in future a greater part of legal aid expenditure will be covered by client contributions. Although there is no specific timetable for this, it would essentially mean raising the current legal aid fee (currently 70 € per client) or altering the scales of excesses. The Ministry is also revising legal aid case criteria, to determine if some legal problems should no longer be eligible for legal aid.¹² (MoJ 2015a, b) Finally, the new legal aid plans also include introducing the stricter implementation of fixed fees in some legal aid cases, to curb costs (ibid.).

The Debate on the Mixed Legal Aid Model in the Twenty-first Century

In recent years, the FBA has probably been the most vocal critic of the current state-funded legal aid system. Their criticism focuses largely on remuneration and the monopoly on non-litigation issues by PLA offices. The level of remuneration to private advisers for legal aid lags behind the normal hourly fees, which causes discontent among lawyers and other legal professionals (Rissanen and Lasola 2014). Many private lawyers complain that the discrepancy between normal legal fees and legal aid

fees is too great: private lawyers would like to see legal aid fees around 130–150 € per hour (Rissanen and Lasola 2014). In addition, PLA offices are exempted from VAT, which arouses resentment among private practitioners.¹³

In Finland the determination of lawyer fees has been left to free competition and market mechanisms. Rather than enforcing fee regulation, the Finnish public legal aid system tries to influence market failures (high prices) in the provision of legal services by giving public subsidies to those citizens who otherwise could not afford to have legal issues dealt with properly (Kilian and Regan 2004). The lower fees for legal aid cases have been justified by the argument that these rein in the costs to the public sector but they also protect those legal aid clients who pay part of the fees themselves (Viitanen 2011, p. 286). The discussion of remuneration is part of a bigger picture about which the FBA has expressed concern: many rural areas are already facing, or will soon face, an acute need for competent lawyers to handle legal aid cases. In recent years, private lawyers have mainly been concentrated in the capital and the surrounding region, and especially in big corporate law firms. At the same time, divisions within the legal profession have increased: according to a survey by the FBA (2012), 70% of bar members under 40 years of age mainly practise business law. Among those aged over 50, the share of business lawyers is 40%. This shift is also being seen in the global context (Abbott 1981; Heinz et al. 1998; Sandefur 2001; Heinz et al. 2005). In addition to the question of fees, the FBA argues that legal aid regulators create market conditions that are unfair to the private profession by maintaining a monopoly on non-litigation cases, and therefore limiting the client's choice of lawyers. The FBA has even recommended that PLA offices should be turned into public legal advice centres and that all other legal aid matters should be handled by private lawyers.

Conclusion

By comparison with international trends, the Finnish PLA system has not tightened constraints on its legal aid criteria in recent years (regarding, for example, income limits or case eligibility). On the contrary, the

Finnish PLA system has more or less continued to offer access to justice in a quasi-universal way (Regan and Johnsen 2007; Rosti et al. 2008; Rissanen and Rantala 2013; Barendrecht et al. 2014). The decrease in the number of PLA offices has had some effects: there has been a slight decrease in the number of clients as well as a slight increase in client waiting times. These minor changes, however, have led to a growing number of cases being delegated to private lawyers. Overall, the effects have been modest compared to those seen in many other legal aid systems in Europe. In general, an efficient and integrated legal aid model is the main reason that the Finnish legal aid system has been able to maintain its comprehensive coverage and internationally recognised reputation. (Regan and Johnsen 2007; Rosti et al. 2008; Barendrecht et al. 2014). Both PLA offices and private lawyers have important roles and duties in the system; PLA offices offer more holistic legal services, whereas private lawyers concentrate on legal disputes.

As seen above, with less money coming in, the Finnish legal aid system is trying to improve access to justice by using less conventional means than those employed in traditional legal services. This is indicated by a move to integrated frameworks of techniques and pathways, instead of concentrating solely on lawyer-led court pathways. The emphasis is on developing e-services and remote services, and on people being pro-active in identifying their legal problems at an earlier stage. This means that the focus is on counselling—preventing the escalation of problems—rather than preparing clients for the litigation process. Thus, the publicly funded legal aid system is taking steps to build confidence rather than to provide too much paternalistic direction.

Finally, it is clear that there is a need for more robust interdisciplinary discussion in Finland about the factors that actually influence people's right to have access to justice. The academic focus has hitherto been on the procedural principles of access to justice (Ervo 2005; Viitanen 2011) and participants' experiences in court processes (Ervasti and Aaltonen 2013; de Godzinsky and Aaltonen 2013). In a time of austerity, the role of diverse academic information is especially important, because it is not feasible to subsidise full-scale legal assistance for every problem that might be brought before the law.

Notes

1. Now called the Institute of Criminology and Legal Policy, the University of Helsinki.
2. The districts are Helsinki, Eastern-Finland, Kouvola, Rovaniemi, Turku, and Vaasa.
3. An area of 340, 000 square km has a population of 5.5 million.
4. European Economic Area.
5. Supervised by the Bar Committee.
6. Figures from September 2015.
7. Helsinki, Espoo, Tampere, Vantaa, and Oulu.
8. Asylum seekers have the right to free legal advice and are able to choose between the legal aid offices maintained by the state and the services offered by private law firms.
9. All the figures in this section were provided by the Ministry of Justice.
10. All fees are represented without VAT (value added tax), which is 24%.
11. <http://www.oikeusasiamies.fi/Resource.phx/pubman/templates/2.htx?id=1115>
12. The Ministry of Justice is tentatively considering whether debt counselling and repeated custody disputes could be excluded from the legal aid scheme.
13. For example, in the case of a customer who is obligated to pay an excess.

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